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1 (Part I).

Gates Assailed for Role in Casey-Iran Hearings

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WASHINGTON—Acting CIA Director Robert M. Gates was accused Wednesday by members of the Senate Intelligence Committee of having helped his predecessor, William J. Casey, mislead Congress last November about the full extent of the agency's involvement in the Iran-contra affair.

Gates, testifying in confirmation hearings on his nomination to head the CIA, insisted that Casey's statement before the committee last Nov. 21 "was a fair statement of what we knew at the time," even though some important facts were omitted.

"It was not an effort to mislead or misguide the committee," Gates said.

Expected to Confirm

Among other things, Casey had failed to tell the committee that the CIA assisted a covert shipment of U.S. arms to Iran a year earlier without receiving a written "finding," or directive, from the President, as required by law. He also did not mention that he had reason to suspect that profits from the arms sales had been diverted to the Nicaraguan rebels—a development that was not publicly disclosed by the Administration until four days later.

The Senate Intelligence Committee, which is empowered by law to oversee activities of the CIA, summoned Casey to testify last Nov. 21, shortly after learning that

President Reagan had sold arms to Iran without notifying Congress. It was the first of many such congressional hearings on the matter.

The committee is expected to confirm Gates' nomination later this month, even though he drew considerable criticism from members of both parties. The panel was so tough on him, in fact, that he was overheard mumbling "take this job and shove it" into what he apparently thought was a dead microphone. He later dismissed his remark as a joke.

Gates, appearing for the second straight day, also disclosed that the CIA had made a profit of \$300,000

on the U.S. arms sales to Iran. He said the money, which remains in an agency bank account where it was deposited by the Iranians, belongs to the U.S. Treasury.

Sen. Arlen Specter (R-Pa.), who described Casey's November testimony as "skimpy, scanty, uninformative and really misleading," accused Gates of "dissembling" about his own role in drafting the testimony. "You are trying to distance yourself from that testimony," he said.

While Gates acknowledged that, as Casey's deputy, he was involved at several points in the preparation of the Nov. 21 testimony, he insisted that he was not responsible for its content. He said he read several drafts and instructed those who were preparing it to include "all the facts that we knew."

But he added that CIA officials were still scrambling to learn the facts of the case when Casey appeared before the committee.

"The director acknowledged in his testimony that we were still gathering facts and that more information would be made available," he said.

Gates, a career CIA employee who has been acting director since Feb. 2 when Casey resigned after undergoing surgery for a brain tumor, also argued that the director had been under no obligation to tell the committee that the agency had aided in an arms shipment to Iran in November, 1985, before receiving a formal "finding" signed by the President on Jan. 17.

Relates CIA Role

In November, 1985, according to Gates' account, agency personnel had helped the Israelis to charter a CIA-proprietary airliner for \$127,000 to fly U.S. arms to Tehran and CIA officers had monitored the progress of the flight.

Although the CIA is prohibited by law from participating in any covert activity without receiving a formal presidential finding, Gates asserted that the agency's participation in November, 1985, was so limited that it did not require a presidential directive.

"The judgment at the time and to this day by our attorneys at the agency was that the role that our officers played in facilitating the flight on the 22nd and 23rd of November, 1985, was not an illegal action and did not require a finding," he said.

Specter, a lawyer and former prosecutor, strongly disagreed.

You're Flat Wrong

"Mr. Gates," he said, "you're flat wrong. . . . It surprises me that the acting director of central intelligence does not know that those sorts of activities require a finding."

To bolster his legal opinion, Specter noted that then-CIA General Counsel Stanley Sporkin, after learning about the agency's involvement in the 1985 shipment, drafted a "retroactive" finding to be signed by the President. Sporkin's document was never signed, however.

"Why would General Counsel Sporkin go to the length of drafting a finding which attempted to legalize activity which had already occurred if it wasn't necessary under the law?" Specter asked.

"I don't know," Gates replied.

Sen. William S. Cohen (R-Me.) suggested later that CIA officials simply "turned their heads" and failed to question White House aide Oliver L. North's request that the agency assist in the November, 1985, shipment to Iran. He said agency officials clearly knew at the time that the cargo was not "oil drilling equipment," as North claimed.

Probes Lie Detector Tests

Specter also demanded to know from Gates why Casey had not informed the committee in November that a central figure in the affair, Iranian arms dealer Manucher Gorbaniifar, had proven untruthful in two lie detector, or polygraph, tests administered by the CIA.

At first, Gates indicated that he did not know at the time about the lie detector tests. "I knew that Gorbaniifar was mistrusted," he said. "I didn't know the details."

Moments later, however, he conceded: "I knew he had problems with one polygraph."

Sen. Bill Bradley (D-N.J.) challenged Gates' claim in testimony Tuesday that he did not inquire further when he learned of the diversion of funds to the Nicara-

guan rebels because the agency at the time was prohibited by law from assisting them financially.

By the time Gates and Casey learned about the diversion of funds last October, the senator noted, the prohibition against CIA assistance to the contras had been repealed by Congress.

Says Gates 'Passed Buck'

In addition, Bradley criticized Gates for failing to take remedial action after he learned about the diversion. Instead, he said, Gates simply "passed the buck" by reporting the information to John M. Poindexter, then White House national security adviser.

When asked by Specter whether he ever challenged the wisdom of the Iranian initiative, Gates replied that he had done so during a conversation with Casey last September. When Specter noted that Gates had replied "no" to a similar question during a closed-door hearing last Dec. 4, the CIA official responded that he had simply forgotten about it until recently.

Several committee members challenged Gates' habit of defending the CIA actions during this period while at the same time acknowledging that he should have been more aggressive in reporting them to Congress. "You can't have it both ways," Bradley said.

Specter said he feared that confirmation of Gates would provide "incentive" to other career government employees to remain silent when confronted by wrongdoing.

"There are many officials in

many bureaus in this country today who are watching this proceeding and are observing what is happening for someone who is a high-ranking No. 2 man, who plays it safe, doesn't speak up and then comes forward for a confirmation hearing and says: 'Well, in hindsight, it should all have been done differently,'" he said.

Gates sought to dispel any suggestion that he had been a "yes man" by insisting that he frequently challenged Casey on many issues. "Sycophants in this town only reach a certain level," he said.